TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. 86.

JAMES C. COREY, PLAINTIFF IN ERROR,

vs.

THE MAYOR AND CITY COUNCIL OF BALTIMORE ET AL.

IN ERROR TO THE COURT OF APPEALS OF THE STATE OF MARYLAND.

FILED JULY 13, 1904.

(19,011.)

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SUPREME COURT OF THE UNITED STATES.

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a *Record.*

In the Court of Appeals of Maryland.

JAMES C. CORRY
vs.
MAYOR AND CITY COUNCIL OF BALTIMORE and Others. } No. —.

Appeal from the circuit court No. 2 of Baltimore city.

Wm. P. Maulsby, Jr., Wm. S. Bryan, Jr., for appellant.
Wm. Pinkney Whyte, Olin Bryan, Isidor Rayner, Charles S. Rich, for appellees.

Filed September 16th, 1902.

b STATE OF MARYLAND, *set:*

Court of Appeals of Maryland, January Term, 1903.

At a court of appeals for the State of Maryland, begun and held for the said State at the city of Annapolis, on the second Monday of January, being the twelfth day of said month, in the year of our Lord one thousand nine hundred and three, and of the Independence of the United States of America, the one hundred and twenty-seventh—Chief Judge McSherry, Judges Page, Pearce, Fowler, Boyd, Jones, Briscoe, Schmucker—among other were the following proceedings to wit:

1 Transcript of record from the circuit court No. 2 of Baltimore city to the court of appeals of Maryland in the case of James C. Corry *vs.* The Mayor and City Council of Baltimore *et al.*

William P. Maulsby, Esqr., William S. Bryan, Jr., Esqr., appellant's solicitors.
Olin Bryan, Esqr., Isidor Rayner, Esqr., Charles S. Rich, Esqr., appellee's solicitor-.

2 *Bill of Complaint.*

Filed 20th September, 1900.

Circuit Court No. 2 of Baltimore City.

JAMES C. CORRY, Plaintiff,
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, JAMES P. GORTER, Collector; Murray Vandiver, Treasurer of the State of Maryland, and The New York and Baltimore Transportation Line, a Body Corporate, Defendants.

To the honorable the judge of said court:

Humbly complaining, your orator James C. Corry, a citizen and resident of the State of Pennsylvania, and a non-resident of the State

of Maryland, suing in behalf of all other non-resident stockholders in the said New York and Baltimore Transportation Line, who may come in and contribute to the expense of this suit, as well as in his own behalf, respectively shows unto your honor:

I. That he is a resident and a citizen of the State of Pennsylvania, and a non-resident of the State of Maryland; that he is a stockholder of the New York and Baltimore Transportation Line, a body politic and corporate, holding 150 shares of the capital stock of said company of the par value of $20. per share.

II. That said New York and Baltimore Transportation Line is a body politic and corporate of the State of Maryland, incorporated by the acts of the General Assembly of Maryland of 1847, chapter 112, which said charter was supplemented by the act of 1866 of the General Assembly of Maryland, chapter 106, and the said charter was extended by the act of 1876 of the General Assembly of Maryland, chapter 36.

III. That by the provisions of section 131 of article 81 of the Code of Public General Laws of Maryland, it is declared that the stock of steamboat and other corporations held by non-resident stockholders is situate at the place where its principal office for the transaction of business is, which in the case of the said New York and Baltimore Transportation Line is the city of Baltimore. The other provisions of the statutes of Maryland in relation to the taxation
3 of stock of corporations are contained in sections 2, 4, 141 and 144 of the said 81st article of said Code of Public General Laws, and the said statutes provide for the valuation of the shares of stock of all corporations by the tax commissioners of Maryland, and that against all the shareholders of said stock shall be charged the State tax, and against the shareholders of said stock resident in Maryland shall be charged the municipal or county taxes of the several localities and jurisdictions in which the respective resident shareholders reside; and that against the non-resident shareholder shall be charged the municipal taxes of the home office of the said corporation; that in the case of non-resident shareholders in the New York and Baltimore Transportation Line such municipal taxes are those levied and assessed in the city of Baltimore. That all of said taxes, State, county, and municipal, are by the said statutes of Maryland required to be paid to the city collector of Baltimore, and to the treasurer of Maryland by the said corporation, and are authorized to be charged to the account of the said shareholders respectively.

IV. That the said tax laws of the State of Maryland have been before the court of appeals of said State on divers occasions, and that the same have been construed to impose the tax upon the owner of the shares of stock respectively and individually for and on account of the shares of stock owned by him; that the tax is imposed, not upon the said steamboat company, nor upon its capital stock, nor upon the property of said company in Maryland, nor upon the shares of stock so by said section 131 of article 81 of said Code of Public General Laws of Maryland declared to have its or their situs in Mary-

land, but that the same is imposed as a personal obligation upon the person of the owner of said shares of stock, and that the same are to be paid by said steamboat company for said owners, who are liable for said money so paid for and on their personal account in the same manner as for any other obligation whatever; and that the decisions which define and declare that the statutes of Maryland which levy and access the taxes against the respective owners of stock and not against the stock itself or against the corporation, are the cases of The United States Electric Power and Light Company *vs.* State, 79 Maryland Reports, 63, and Crown Cork and Seal Company *vs.* State, 87 Maryland Reports, 687, and Hull *vs.* Improvement Company, 89 Maryland, and Monticello Distilling Company, *vs.* Mayor and City Council of Baltimore January term 1900. That 12,811 shares of said stock are held by non-residents of the State of Maryland, and that the total amount of the tax levied on the said non-resident stockholders for the year 1899 amounts to $3,695.79 and to a slightly smaller sum for the year 1900.

V. That the capital of the said New York and Baltimore Transportation Line was valued and assessed after making all de-
4 ductions for real estate on which the tax was paid by the corporation at $14.57 per share for the year 1899, and at the same rate for the year 1900.

VI. That this valuation and assessment makes the municipal taxes on the shares of your orator for the year 1899 the sum of $43.27 being on the assessed value of $14.57 per share, and at the rate of one dollar and ninety-eight cents on the hundred dollars, and the State taxes of $3.87 on said shares of stock. And the municipal tax for the year 1900 the sum of $36.49 being on the assessed value of $14.57 per share, and at the rate of one dollar and sixty-seven cents on the hundred dollars; the State tax for both years being on the same assessed value of $14.57 per share and at the rate of seventeen and three quarter cents on the one hundred dollars. Payment of which said sums of $36.49 and $43.27 James P. Gorter, city collector has demanded on behalf of the Mayor and City Council of Baltimore from the said The New York and Baltimore Transportation Line, and the payment of which the said James P. Gorter threatens to enforce against said New York and Baltimore Transportation Line; and the payment of the said State tax of $3.87 for each of said years 1899 and 1900 has been demanded by Murray Vandiver, State treasurer of Maryland, under a threatened penalty as prescribed by chapter 244 of the Acts of 1890 of the General Assembly, and with a threat to enforce the payment of said tax, if not paid by said corporation.

VII. That the said The New York and Baltimore Transportation Line is about to comply with the said demands of the said James P. Gorter and the said Murray Vandiver, and pay said taxes so demanded unless restrained therefrom by this honorable court, and to thus place the New York and Baltimore Transportation Line in the position of creditor of your orator in the amount of said taxes, and

making your orator a debtor of said New York and Baltimore Transportation Line without his consent and against his will.

VIII. That your orator is advised and therefore charges that the above scheme of taxation and the provisions of law establishing the same as herein set forth by the State of Maryland, under which the above mentioned taxes have been imposed and laid, and by which they are now demanded to be paid and are attempted to be collected is an attempt on the part of the State of Maryland, and of the mayor and city council of Baltimore, to levy a tax, not upon the corporation within its borders, nor upon the capital stock of such corporation, but to levy such tax upon the person of the non-resident shareholders of said stock and to subject the said shareholders to a personal liability for the same and to create a personal debt therefor. That the said attempt upon the part of the State of Maryland and the said mayor and city council of Baltimore to levy said taxes is illegal and void, because it is beyond the power and jurisdiction of the said State of Maryland and the mayor and city council of Baltimore to levy a personal tax upon your orator, a non-
5 resident of the State of Maryland, and that the attempt to enforce the payment of said tax under and by virtue of the provisions of the statutes aforesaid, is an attempt to take from your orator his property without due process of law or color of right, and in contravention of the Constitution of the United States and of the fourteenth amendment thereto.

IX. And your orator further shows unto your honor, that by the statute laws of Maryland no provision is made for any hearing or opportunity to be heard by your orator or by another stockholder in the said New York and Baltimore Transportation Line from the valuation and assessment placed upon said shares of stock by the tax commissioners of Maryland.

And your orator is advised, believes and therefore charges that a reasonable opportunity to be heard upon or in regard to the valuation of said shares of stock at some time, and at some place by the owners thereof, by whom and out of whose funds the said tax is to be paid, is essential to the validity of said tax; and that in attempting to levy and collect said tax the State and Baltimore municipal authorities are attempting to take property without the due process of law, in contravention of the twenty-third article of the declaration of rights of this State and also in contravention of the fourteenth amendment of the Constitution of the United States.

XI. Wherefore your orator prays for the following relief:

(a.) That the Mayor and City Council of Baltimore and James P. Gorter collector of taxes therein, be restrained and enjoined from collecting from the said the New York and Baltimore Transportation Line the above mentioned tax for municipal purposes of $43.27 claimed to be due from your orator for the municipal tax on the said shares of the stock of your orator in said New York and Baltimore Transportation Line for the year 1899, and from the said New York and Baltimore Transportation Line the above mentioned tax

for municipal purposes of $36.49 claimed to be due from your orator for the municipal tax of the said shares of the stock of your orator in the said New York and Baltimore Transportation Line for the year 1900.

(*b.*) That Murray Vandiver, treasurer of Maryland, be restrained and enjoined from collecting from the New York and Baltimore Transportation Line the above mentioned tax for State purposes of $3.87 claimed to be due from your orator for the State tax on the shares of stock of your orator in said New York and Baltimore Transportation Line for the year 1899, and also from collecting from the New York and Baltimore Transportation Line the above mentioned tax for State purposes of $3.87 claimed to be due from your orator for the State tax on the shares of stock of your orator in the said New York and Baltimore Transportation Line for the year 1900.

6 (*c.*) That the New York and Baltimore Transportation Line be restrained and enjoined from paying to the Mayor and City Council of Baltimore or to James P. Gorter, city collector of taxes in said city, the above mentioned municipal taxes for the years 1899 and 1900, on the shares of stock of your orator; and that

(*d.*) The said New York and Baltimore Transportation Line be restrained and enjoined from paying to Murray Vandiver, State treasurer, the above mentioned State taxes for the years 1899 and 1900 on the shares of stock of your orator; and

(*e.*) That your orator may have such other and further relief as equity and his case may require.

May it please your honor to grant unto your orator the writ of injunction as above prayed, and also a writ of summons directed to the said Mayor and City Council of Baltimore, and to James P. Gorter, city collector, and to Murray Vandiver, State treasurer, and to the New York and Baltimore Transportation Line commanding them to be and appear in this court on some certain day to be named therein, to answer the premises and abide by and perform such decree or decrees to be passed therein.

And as in duty bound &c.,

WM. P. MAULSBY,
WILLIAM S. BRYAN, JR.,
Sols. for Pl'ff.

STATE OF PENNSYLVANIA, } *To-wit:*
City of Philadelphia, }

Before me a notary public for the Commonwealth of Pennsylvania residing in the city of Philadelphia, personally appeared James C. Corry, the plaintiff in the foregoing proceedings, who being duly sworn says the facts and statements therein made are true to the best of his knowledge and belief.

JAS. C. CORRY.

Sworn and subscribed before me this 26th day of July, 1900.

[SEAL.] BENJ. H. RENSHAW,
Notary Public.

Order for Appearance.

Filed 2nd September, 1900.

In the Circuit Court No. 2 of Baltimore City.

JAMES C. CORRY, Plaintiff,
vs.
MAYOR AND CITY COUNCIL OF BALTIMORE, JAMES P. GORTER, Collector; Murray Vandiver, Treasurer of Maryland, and New York and Baltimore Transportation Line, Defendants.

7 Mr. Clerk:

Enter my appearance for The New York and Baltimore Transportation Line, one of the defendants herein.

CHARLES S. RICH.

Subpœna to Answer Bill of Complaint.

Issued 20th September, 1900.

Equity subpœna.

The State of Maryland to the Mayor and City Council of Baltimore, James P. Gorter, collector of Baltimore city, Greeting:

We command and enjoin you, that all excuses set aside, you be in your person before the circuit court No. 2 of Baltimore city, at the court house in said city, on the second Monday of October 1900 to answer the complaint of James C. Corry against you in said court exhibited.

Hereof fail not, as you will answer the contrary at your peril:

Witness the Honorable Henry D. Harlan, chief judge of the supreme bench of Baltimore city, the 10th day of Septe*b*mer, 1900, issued the 20th day of September, in the year 1900.

ALFRED J. SCHULZ, *Clerk.*

Summoned, Ambo.

"Solomon." Fees $0.80.

JOHN B. SCHWATKA, *Sheriff.*

Sept. 21, 1900.—Service admitted.

OLIN BRYAN,
1st Ass. City Sol.

Enter my appearance for defendant.

OLIN BRYAN.

Circuit Court for Anne Arundel County.

ANNAPOLIS, MD., *Oct. 6th*, 1900.

Mr. Alfred J. Schultz.

DEAR SIR: Mr. Vandiver has not been in Annapolis since this summons was handed me. I visited his office daily and made inquiries as to his coming, but no one could tell when he would be in the city, so I return *non est*.

Yours respectfully, JOHN BOND, *Sheriff*.

Subpœna to Answer Bill of Complaint.

Issued 20th September, 1900.

Equity subpœna.

The State of Maryland to Murray Vandiver, treasurer of the State of Maryland, of Anne Arundel county, Greeting:

We command and enjoin you, that all excuses set aside you be in your person before the circuit court No. 2 of Baltimore
8 city, at the court house in said city, on the second Monday of October, 1900 to answer the complaint of James C. Corry, against you in said court exhibited. Hereof fail not, as you will answer the contrary at your peril:

Witness the Honorable Henry D. Harlan, chief judge of the supreme bench of Baltimore city, the 10th day of September, 1900, issued the 20th day of September, in the year 1900.

ALFRED J. SCHULZ, *Clerk*.

Alfred J. Schulz, clerk ct. ct. No. 2 of Baltimore city to sheriff of Anne Arundel Co. Md.

Received this 21st day of September, 1900 and forthwith delivered to the sheriff of Anne Arundel county.

GEO. WELLS, *Clerk*.

Oct. 6, 1900.—*Non est*.

JOHN BOWIE, *Sh'r'ff*.

Subpœna to Answer Bill of Complaint.

Issued the 8th day of October, 1900.

Equity subpœna.

The State of Maryland to Murray Vandiver, treasurer of the State of Maryland (Democratic headquarters, Eutaw house), of Baltimore city, Greeting:

We command and enjoin you, that all excuses set aside, you be in your person before the circuit court No. 2 of Baltimore city, at the court house in said city, on the second Monday of November, 1900 to answer the complaint of James C. Corry, against you in said court exhibited. Hereof fail not, as you will answer the contrary at your peril:

Witness the Honorable Henry D. Harlan, chief judge of the supreme bench of Baltimore city, the 10th day of September, 1900 issued the 8th day of October, in the year 1900.

ALFRED J. SCHULZ, *Clerk.*

Summoned.

JOHN B. SCHWATKA, *Sheriff.*

(Stanton.) Fees $0.40.

9 *Joint and Several Answer of the Mayor and City Council of Baltimore and James P. Gorter, Collector.*

Filed 23rd November, 1900.

Circuit Court No. 2 of Baltimore City.

JAMES C. CORRY, Plaintiff,

vs.

THE MAYOR AND CITY COUNCIL OF BALTIMORE, JAMES P. GORTER, Collector; Murray Vandiver, Treasurer of the State of Maryland, and The New York and Baltimore Transportation Line, a Body Corporate, Defendants.

To the honorable the judge of said court:

The joint and several answer of the Mayor and City Council of Baltimore and James P. Gorter, collector, to the bill of complaint of James C. Corry against them and others in the circuit court of Baltimore city exhibited, respectfully represents unto your honor:

1. That they neither admit nor deny the allegations set forth in the first and second paragraphs of the bill, but demand proof thereof.

2. That they deny that the laws of the State of Maryland, in reference to the subject-matter of this suit, are properly or fully set forth in paragpraph three of the bill, and they respectfully refer the court to the statutes upon the subject, as embodied in the Code of Public General Laws of the State of Maryland, and the Code of Public Local Laws of the city of Baltimore.

3. In answer to the fourth paragraph of said bill, while they are advised that it is — proper to set forth in a bill of equity legal conclusions, or to cite authorities in support of the propositions contended for in the bill, nevertheless, in answer to said paragraph, they state that the conclusions of law therein arrived at are not in accordance with the statutes of the State or with the decisions of the court of appeals governing the subject, and that neither the statutes nor the decisions have been fully and properly referred to. In further answer to said paragraph, they state that they can neither admit nor deny the number of shares of said stock held by non-residents of the State of Maryland, as set forth in said paragraph, in the defendant corporation.

4. That they can neither admit nor deny the allegations of the fifth, sixth and seventh paragraphs of said bill, but demand proof thereof.

5. They deny the construction that the complainant places upon the statutes of the State in relation to the subject matter of this suit in the eighth paragraph of the bill, they deny that the said system of taxation is illegal and void as therein claimed, and they deny that there is any attempt to take from the complainant his property without due process of law, in contravention of the Constitution of the United States and of the fourteenth amendment thereto.

6. They deny the allegations contained in the ninth paragraph of the bill, and they claim that full provision is made by the statutes of the State for a hearing in reference to the valuation and assessments of the stock therein set forth, and they refer to the laws of the State in support of this proposition; and they again deny, in answer to the allegations of said paragraph of said bill, that either the State or the municipal authorities are attempting to take property without due process of law, either in contravention of the declaration of rights of the State of Maryland, or of the Constitution of the United States, or of any amendment thereto.

7. And now having answered said bill, in further answer thereto, your respondents state that the system of taxation now in force in the State of Maryland, both as regards State and city taxation, is a perfectly valid system, and does not violate any of the articles of the bill of rights, or any of the provisions of the Constitution of the United States or of any amendment thereto. That the State of Maryland had a perfect right to establish and enforce the system of taxation that now exists therein, and which has existed from time immemorial, in regard to all stock issued by corporations that it has chartered, and which derive their corporate powers from the legis-

lation of the State and are created by it. That the taxes referred to in the bill of complaint are not collected from the stockholders of the corporation, but, on the contrary, under the statutes and under the system aforesaid, are collected from the corporation, and that The New York and Baltimore Transportation Line, one of the defendants in this case, is a Maryland corporation and is a debtor to the State of Maryland and to the city of Baltimore for the amount of taxes due and owing by it by virtue of the provisions of the statutes of Maryland relating to said subject.

Wherefore and for the reason herein given, your respondents state that they are advised that no injunction can be issued restraining either the State of Maryland, through its officers, or the mayor and city council of Baltimore and its collector, from collecting from the New York and Baltimore Transportation Line the State or municipal taxes which it owes, and that no injunction will lie to enjoin the said company from paying said taxes. And they therefore pray that said bill may be dismissed.

And as in duty &c.

OLIN BRYAN,
Att'y for M. & C. C. of Balto. and James P. Gorter, Collector.

11 STATE OF MARYLAND, *Baltimore City,* } *To-wit:*

I hereby certify, that on this 23rd day of November, in the year nineteen hundred, before me, the subscriber a justice of the peace of the State of Maryland, in and for Baltimore city aforesaid, personally appeared James P. Gorter, collector, and made oath in due form of law, both for himself and as agent of the Mayor and City Council of Baltimore, that the matters and things in the aforegoing answer are true to the best of his knowledge, information and belief.

C. CHAS. FRIEDLE, *J. P.*

Answer of Murray Vandiver, Treasurer of the State of Maryland.

Filed 26th November, 1900.

In the Circuit Court No. 2 of Baltimore City.

JAMES C. CORRY, Plaintiff,
vs.
MAYOR AND CITY COUNCIL OF BALTIMORE, JAMES P. GORTER, Collector; Murray Vandiver, Treasurer of the State of Maryland, and The New York and Baltimore Transportation Line, a Body Corporate, Defendants.

To the honorable the judge of said court:

The answer of Murray Vandiver, treasurer of the State of Maryland, to the bill of complaint of James C. Corry against him and

others in the circuit court of Baltimore city exhibited, respectfully represents unto your honor:

1. That he neither admits nor denies the allegations set forth in the first and second paragraphs of the bill, but demands proof thereof.

2. That he denies that the laws of the State of Maryland, in reference to the subject matter of this suit, are properly or fully set forth in paragraph three of the bill, and he respectfully refers the court to the statutes upon the subject, as embodied in the Code of Public General Laws of the State of Maryland, and the Code of Public Local Laws of the city of Baltimore.

3. In answer to the fourth paragraph of said bill, while he is advised that it is not proper to set forth in a bill of equity legal conclusions, or to cite authorities in support of the propositions contended for in the bill, nevertheless, in answer to said paragraph, he states that the conclusions of law therein arrived at are not in accordance with the statutes of the State or with the decisions of the court of appeals governing the subject, and that neither the statutes nor the decisions have been fully and properly referred to. In further answer to said paragraph, he states that he can neither
12 admit nor deny the number of shares of said stock held by non-residents of the State of Maryland, as set forth in said paragraph, in the defendant corporation.

4. That he can neither admit nor deny the allegations of the fifth, sixth and seventh paragraphs of said bill, but demand proof thereof.

5. He denies the construction that the complainant places upon the statutes of the State in relation to the subject matter of this suit in the eighth paragraph of the bill, he denies that the said system of taxation is illegal and void as therein claimed, and he denies that there is any attempt to take from the complainant his property without due process of law, — contravention of the Constitution of the United States and the fourteenth amendment thereto.

6. He denies the allegations contained in the ninth paragraph of the bill, and he claims that full provision is made by the statutes of the State for a hearing in reference to the valuation and assessment of the stock therein set forth, and he refers to the laws of the State in support of this proposition; and he again denies, in answer to the allegations of said paragraph of said bill, that either the State or the munici-al authorities are attempting to take property without due process of law, either in contravention of the declaration of rights of the State of Maryland, or of the Constitution of the United States, or of any amendment thereto.

7. And now having answered said bill, in further answer thereto, your respondent states that the system of taxation now in force in the State of Maryland, both as regards State and city taxation, is a perfectly valid system, and does not violate any of the articles of the bill of rights, or any of the provisions of the Constitution of the United States or of any amendment thereto. That the State of

Maryland had a perfect right to establish and enforce the system of taxation that now exists therein, and which has existed from time immemorial, in regard to all stock issued by corporations that it has chartered, and which derive their corporate powers from the legislation of the State and are created by it. That the taxes referred to in the bill of complaint are not collected from the stockholders of the corporation, but on the contrary, under the statutes and under the system aforesaid, are collected from the corporation, and that the New York and Baltimore Transportation Line, *and* of the defendants in this case, is a Maryland corporation and is *more* for the amount of taxes due and owing by it by virtue of the provisions of the statutes of Maryland relating to said subject. And this respondent further states, that so far as the suit against him as treasurer of the State of Maryland is concerned, that it is in effect a suit against the State, and that the State is not liable or amenable to suit.

Wherefore and for the reasons herein given, your respondent states that he is advised that no injunction can be issued restraining either the State of Maryland, through its officers, or the
13 Mayor and City Council of Baltimore and its collector, from collecting from the New York and Baltimore Transportation Line the State or municipal taxes which it owes, and that no injunction will lie to enjoin the said company from paying said taxes. And he therefore prays that said bill may be dismissed.

And as in duty, &c.

ISIDOR RAYNER,
Sol. for Vandiver, Treas., Md..

STATE OF MARYLAND, *City of Baltimore*, } *sct:*

I hereby certify, that on this 24th day of November in the year nineteen hundred, before me, the subscriber, a notary public of the State of Maryland in and for Baltimore city aforesaid, duly commissioned and qualified, personally appeared Murray Vandiver, treasurer of the State of Maryland, and made oath in due form of law that the matters and things in the aforegoing answer stated are true to the best of his knowledge, information and belief.

In testimony whereof I have hereunto set my hand and affixed my notarial seal.

[SEAL.]

GEO. A. FOOS,
Notary Public.

Answer of the New York and Baltimore Transportation Line.

Filed 27th November, 1900.

In the Circuit Court No. 2 of Baltimore City.

JAMES C. CORRY, Plaintiff,
vs.
MAYOR AND CITY COUNCIL OF BALTIMORE, JAMES P. GORTER, Collector; Murray Vandiver, Treasurer of the State of Maryland, and The New York and Baltimore Transportation Line, a Body Corporate, Defendants.

The answer of the New York and Baltimore Transportation Line.

This defendant, answering, says:

That it admits the matters and facts in the bill of complaint herein filed, to be true and submits the matters of law therein and the rights of this defendant to the action of this honorable court.

CHARLES S. RICH,
Solicitor for the New York and Baltimore Transportation Line.

14 *General Replication.*

Filed 27th November, 1900.

In the Circuit Court No. 2 of Baltimore City, —— Term, 189–.

JAMES C. CORRY
vs.
MAYOR AND CITY COUNCIL OF BALTIMORE, JAMES P. GORTER, Collector; Murray Vandiver, Treasurer, *et als.*

The plaintiff joins issue on the matters alleged in answer of The Mayor and City Council of Baltimore, James P. Gorter, collector, Murray Vandirver, treasurer and The N. Y. and Balto. Transportation Line, the defendants herein, so far as the same may be taken to deny or avoid the allegations of the bill.

W. P. MAULSBY,
WILLIAM S. BRYAN, JR.,
Solicitors for Plaintiff.

Petition and Order to Take Testimony under 35th Rule and Order of Court Thereon.

Filed 17th April, 1902.

In the Circuit Court No. 2 of Baltimore City.

JAMES C. CORRY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE ET AL.

To the honorable the judge of the circuit court No. 2 of Baltimore city:

The plaintiff in this case respectfully shows unto your honor:

That he desires to examine orally, in open court and in the presence of your honor, certain witnesses who can testify to the facts and matters relevant to the allegations in the bill of complaint filed in this case.

Your petitioner therefore prays your honor to pass an order, according to the statutes for such cases made and provided.

And as in duty bound will ever pray.

WILLIAM S. BRYAN, JR.,
Solicitor for Plaintiff.

Upon the foregoing petition and application, it is this 17th day of April, A. D. 1902, ordered that the petitioner have leave to take testimony as prayed and that the testimony to be offered be
15 taken as required by the 35th rule of this court. And it is further ordered that a copy of this petition and order be served on the defendants or their solicitors on or before the 24th day of April, 1902.

PERE L. WICKES.

Service of copy admitted, Olin Bryan, att'y for M. & C. C. Copies of within order of court served on Isidor Rayner and Charles S. Rich solicitors on the 21st day of April 1902 and on Olin Bryan and James S. Gorter solicitors on the 22nd day of April. 1902 in the presence of Frank J. Corrigan.

GEORGE WARFIELD, *Sheriff.*

Agreement of Counsel.

Filed 24th June, 1902.

In the Circuit Court No. 2 of Baltimore City.

CORRY
vs.
M. & C. C. OF BALTIMORE ET AL.

It is agreed that the several answers in this case be withdrawn and that demurrers be considered as filed under proper affidavit by each of the defendants herein.

WILLIAM S. BRYAN, JR., *For Pl'ff.*
OLIN BRYAN,
Attorney for Mayor and City Council and Other Defendants Represented by Him.
CHARLES S. RICH,
Attorney for N. Y. & Balto. Transportation Line.
ISIDOR RAYNER,
Att'y for Murray Vandiver, State Treasurer.

Decree of Court.

Filed 24th June, 1902.

In the Circuit Court No. 2 of Baltimore City.

CORRIE
vs.
MAYOR & CITY COUNCIL OF BALTIMORE ET AL.

The demurrers of the defendants in this case coming on to be heard and the proceedings being read and considered and the court being of opinion that the method of taxation of the stock in Maryland corporations held by non-residents of the State of Maryland is valid and lawful, it is this 24th day of June 1902, ordered, adjudged and decreed that the demurrers to the bill of complaint be and the same are hereby sustained, and it is further ordered, adjudged and decreed that the bill of complaint be and hereby is dismissed with costs.

J. UPSHUR DENNIS.

16 *Prayer for Appeal.*

Filed 25th July, 1902.

In the Circuit Court No. 2 of Baltimore City.

CORRIE
vs.
M. & C. C. OF BALTIMORE ET AL.

Mr. Clerk:

Enter an appeal from the decree of the court here to the court of appeals of Maryland.

WM. P. MAULSBY, JR.,
WILLIAM S. BRYAN, JR.,
Attorneys for Pl'ff.

Which said appeal being by the court here also granted, it is thereupon ordered by the court here that a transcript of the record of proceedings in the case aforesaid be transmitted to the court of appeals of the State of Maryland under the rules thereof and the same is transmitted accordingly.

Test: THOMAS A. ROBINSON,
Clerk of the Circuit Court No. 2 of Baltimore City.

In testimony whereof that the foregoing is a full and true transcript of the aforegoing papers taken from the record of proceedings in the circuit court No. 2 of Baltimore city in the cause therein mentioned,

I hereto set my hand and affix the seal of the said circuit court No. 2 of Baltimore city on this fifteenth day of September in the year of our Lord nineteen hundred and two.

Test:

[SEAL.] THOMAS A. ROBINSON,
Clerk of the Circuit Court No. 2 of Baltimore City.

JAMES C. CORRY
vs.
MAYOR AND CITY COUNCIL OF BALTIMORE and Others.

This, cause came on to be heard, was taken up and argued by counsel, on consideration whereof the court finds there is no error apparent on the record in the proceedings and judgment of the lower court. It is therefore on the 16th day of January 1903, considered by the court that the said judgment be, and the same hereby is affirmed, and that the appellee recover of the appellant his costs &c.

And on the same day to wit January 16th, 1903 there was filed in said cause the following opinion in the words and figures to wit:

17 *Opinion by Briscoe, J.*

Filed January 16th, 1903.

Court of Appeals of Maryland, January Term, 1903.

JAMES C. CORRY
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and Others.

James C. Corry, a resident of the State of Pennsylvania, and a non-resident of Maryland, filed a bill in circuit court No. 2 of Baltimore city, on behalf of himself and other non-resident stockholders, of the New York and Baltimore Transportation Line, a corporation, of the State of Maryland against The Mayor and City Council of Baltimore, James P. Gorter, collector, Murray Vandiver,
18 treasurer of the State of Maryland and The New York and Baltimore Transportation Line, to restrain and enjoin the defendants from collectng State and municipal taxes for the year 1899, on 150 shares of the capital stock of the transportation company, of the par value of twenty dollars per share.

The defendants answered the bill but subsequently these answers were withdrawn and by an agreement, demurrers were considered, as filed by the defendants. And from a decree of the circuit court of Baltimore city, of the 24th of June, 1902, sustaining the demurrer and dismissing the plaintiff's bill, this appeal has been taken.

The principal and important question presented by the case, is whether the method of taxation provided by the statutes of
19 Maryland, of stocks in Maryland corporations held by non-residents of the State is valid and constitutional. The provisions of the several statutes of the States, relating to the tax will be found in section- 2, 4, 141 and 144, of the 81st article of the Code of Public General Laws and in the supplement of the Code of 1900.

These statutes distinctly provide that the shares of capital stock of all corporations, whether owned by residents or non-residents shall be liable to assessment and taxation, and by section 131 of the Code the stock held by non-resident stockholders in steamboat or other companies &c. is situate for the purpose of taxation at the place where its principal office for the transaction of business is located, that is, in this case in the city of Baltimore.

The mode, method and manner of the assessment, valuation and taxation, as applicable to stock held by non-resident share-
20 holders is clearly and fully provided and directed by the several statutes, and it is admitted that the taxes in this case were imposed according to the provisions of the statutes.

The appellant urges four grounds why the tax laws of the State here in dispute are not constitutional and valid:

(1.) Because the tax is a personal one, and is beyond the powers and jurisdiction of the State to levy a personal tax against a non-resident of the State,

(2.) To enforce the collection "is taking property without due process of law," or color of right and in contravention of the Constitution of the United States.

(3.) That no provision is made by the statutes for a hearing or opportunity to be heard, by the non-residents of the State.

(4.) That the levy of the city tax upon stock held by non-
21 residents in corporations in Baltimore city is exempt by the new charter, (act of 1898 chapter 123).

Some of the questions raised on this appeal, can hardly, at this date, be regarded as *res nova*, in this court. Similar statutes have been enacted from time to time, by the General Assembly of the State, imposing a tax upon corporate stock, in Maryland corporations, held by non-residents and in one form or another, have been brought to this court for construction. The principle of this legislation has been upheld and recognized by this court, in all the cases, except where the statute was plainly in contravention of the State or Federal constitutions. Whatever, may be the adjudications, in other States, it is quite certain, that in the construction of this statute we are to be controlled by the decisions of our own court, in so far as they are applicable to the case. It is distinctly declared by the 15th
22 article of the bill of rights that "every person in the State or person *holding property therein*, ought to contribute his proportion of public taxes for the support of the government according to his actual worth in real or personal property.

In the case of The Mayor and City Council of Baltimore *vs.* Baltimore City Passenger Railway Company, 57 Md. 31, it is said; that express provision is made by the act for valuing the stock owned by non-residents at the place, where the company has its principal office for the transaction of business, that the shares of stock held by non-residents are liable to taxation, and that for the purposes of taxation, such shares are situate in the city of Baltimore, where the appellee has its principal office.

The provisions of the statute under discussion, clearly fixes
23 the situs of stock, held by non-residents for taxation, at the place of the principal office of business of the corporation within the State, and the shares of stock being taxable property under the statute, the State and municipality of Baltimore under the conceded facts of this case, clearly had jurisdiction to impose a tax upon the property, situate here, and to collect taxes thereon, notwithstanding the fact, the appellant was a non-resident of the State.

It would answer no good purpose, to discuss at length the question of the constitutionality of this tax in the light of the many and recent adjudications of this court, upon the subject, but we need

only refer to the following cases, which sustain the conclusion, we have reached. American Coal Co. *vs.* County Commissioners of Allegany County, 59 Md. 185; Electric Light & Power Co. *vs.* State 79 Md. 70; Crown Cork and Seal Co. *vs.* State, 87 Md. 696; The American Casualty Insurance Co. case 82 Md. 563; Bonaparte *vs.*
24 State, 63 Md. 456; Baldwin *vs.* State, 85 Md. 155 and Kinehart *vs.* Howard, 90 Md. 1.

The second and third objections urged by the appellant are, that section 144 of article 81 of the Code, fails to provide a notice to the shareholder of the assessment and valuation, of this property and he was therefore; without an opportunity to be heard as to the value of the shares, and to enforce the collection, would be "taking property without due process of law."

This section of the code was under consideration in the recent case of James Clark Distilling Co. *vs.* Mayor &c. of Cumberland, 95 Md. (52 Atl. Rep.) and we distinctly said; that a notice to each shareholder is unnecessary, because the corporation represents the shareholder. If the valuation is not satisfactory, an appeal may be taken by the corporation for the shareholder, an opportunity is thus afforded for the shareholders to be heard through the cor-
25 poration and that gratifies all the requirements of the law."

It will be also seen, that section- 141 and 144 of article 81 of the Code do not contemplate a personal notice to the property holder, but a compliance with the requirements of the statute is a sufficient notice to the non-resident property holder of the assessment and valuation of the property. We find nothing in the case of Gettings *vs.* Mayor &c., 95 — Ulman *vs.* Baltimore, 72 Md.; County Commissioners Allegany Co. *vs.* Union Mining Co. 61 Md. relied upon by the appellant, in conflict with this construction of the statute.

The appellant's fourth contention is that the shares of stock held by him, are exempt from city taxes by reason of the provision of the city charter (Acts of 1898, chapter 123), which provides; that no stocks, bonds, mortgages, certificates or other evidences of in-
26 debtedness of any bank, or other corporation situate within the limits of the city, which are owned or held by persons, residing without said limits shall be subject to taxation for the purpose above set forth, section 6, sub-section Taxes city charter, (Acts of 1898, chapter 123).

This section of the charter, has no reference to stocks, bonds, &c. owned and held by non-residents of the State. It applies to persons living within the State, but without the limits of Baltimore city, that is, to stocks, bonds &c. held by persons residing within the counties and cities of the State. It, therefore, has no application to this case.

We have examined the Federal decisions bearing upon the questions raised on this appeal, and find them in harmony with the views, we have expressed. We cite the following cases in support

of the conclusion reached by us in this case. New Orleans *vs.*
27 Stempel, 175 U. S. 309; Savings & Loan Society *vs.* Multnomah, 169 U. S. 421; McCulloh *vs.* Maryland, 4 Wheaton, 316; Coe *vs.* Errol, 116 U. S. 517; Pullman Car Co. *vs.* Pa. 141 U. S. 18; Nevada Bank *vs.* Sedgwick, 104 U. S. 111; Kirtland *vs.* Hotchkiss, 100 U. S. 491; Bristol *vs.* Washington Co. 177 U. S. 139.

We hold, therefore, that the shares of stock held and owned by the appellant, a non-resident of the State, in a Maryland corporation, are liable to taxation, under the statutes of this State, and that the tax is not in violation of either the State or Federal Constitution.

For these reasons the decree of the circuit court No. 2 of Baltimore city, will be affirmed, with costs.

Decree affirmed, with costs.

And on the same day and year aforesaid January 16th 1903 there was filed in said cause the following decree in the words and figures to wit:

28 *Decree of the Court of Appeals, January 16th, 1903.*

Court of Appeals of Maryland, January Term, 1903.

JAMES C. CORRY
vs.
THE MAYOR AND CITY — OF BALTIMORE ET AL.

Filed January 16th, 1903.

The appeal in this case standing ready for hearing was argued by counsel for the respective parties, and the proceedings have since been considered by the court.

It is thereupon, this sixteenth day of January A. D. 1903, by the court of appeals of Maryland, and by the authority thereof, adjudged, ordered and decreed tha- the decree of the circuit court number two of Baltimore city made in this cause on the twenty fourth day of June in the year nineteen hundred and two be and the same is hereby affirmed with costs.

29 JAMES McSHERRY.
DAVID FOWLER.
JOHN P. BRISCOE.
A. HUNTER BOYD.
SAMUEL D. SCHMUCKER.

30 *Petition for the Writ of Error.*

Filed July 1st, 1903.

In the Court of Appeals of Maryland.

JAMES C. CORRY
vs.
MAYOR AND CITY COUNCIL ET ALS.

To the Honorable James McSherry, chief judge of the court of appeals of the State of Maryland:

James C. Corry, the plaintiff in the court below, and the appellant in this court, respectfully shows:

That there is error in the record of proceedings in this cause in this court, the court of appeals of Maryland, the same being the highest court of law and equity of the State of Maryland, in
31 which decision can be had in this controversy, in that this court has on January 16th, 1903, rendered a decision affirming the decree of the circuit court No. 2 of Baltimore city, dismissing the bill of complaint of the said James C. Corry; and this appellant, James C. Corry respectfully shows that in the decision and decree, the error in which is herein complained of, there was drawn in question the validity of statutes of the States of Maryland under the Constitution of the United States and under the 14th amendment thereto; and that by said decision a right was claimed by the said James C. Corry, under said Constitution of the United States and under the 14th amendment thereto, and that the said decision in this court is against the right of the said James C. Corry, especially set up and claimed; all of which appears in the records and proceedings in this suit, whereby manifest error has happened
32 to the great damage of the said James C. Corry.

Wherefore the said James C. Corry, by his attorneys, William P. Maulsby and William S. Bryan, Jr., prays for an allowance of a writ of error and such other process as may cause the said error to be corrected by the Supreme Court of the United States.

And as in duty &c.

WILLIAM S. BRYAN, JR.,
Attorney for James C. Corry.

In the Court of Appeals of Maryland.

JAMES C. CORRY
vs.
MAYOR AND CITY COUNCIL ET ALS.

In this cause application having been made — me, the Hon-
33 orable James McSherry, chief judge of the court of appeals of the State of Maryland, that being the highest court of record in this State, in which said cause can be heard, for the allowance of a writ of error to remove said cause to the Supreme Court of the United States, for review, in accordance with the Constitution and laws of the United States, and the rules of practice of the Supreme Court of the United States, and for the fixing and approving of the bond on the removal of the said cause to the Supreme Court of the United States,

It is hereby ordered this second day of June 1903, that the said writ of error be and the same is hereby allowed, and that the same may be issued by any officer authorized to issue the same, and the penalty in the bond is hereby fixed at the sum of $ one thousand dollars with Clarance Shriver, as surety thereon.

JAMES McSHERRY.

34 *Writ of Error.*

Filed July 1st, 1903.

Court of Appeals of Maryland.

JAMES C. CORRY, Appellant,
vs.
MAYOR AND CITY COUNCIL OF BALTIMORE ET ALS., Appellees.

UNITED STATES OF AMERICA, *ss:*

[The Seal of the Circuit Court, Maryland.]

The President of the United States of America to the honorable the judges of the court of appeals of Maryland, Greetings:

Because in the record and proceedings, as also in the ren-
35 dition of the judgment of a plea which is in the said court of appeals of Maryland before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between James C. Corry, plaintiff, and plaintiff in error, and Mayor and City Council, *et als.* defendants and defendants in error, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United

States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repu-nant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under the United States, and
36 the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the Constitution, treaty, statute, or commission; a manifest error hath happened to the great damage of the said James C. Corry, plaintiff in error, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington within thirty days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct
37 that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the twenty-seventh day of June in the year of our Lord one thousand nine hundred and three.

JAS. W. CHEW,
Clerk of the Circuit Court of the United States for the District of Maryland.

Allowed by
JAMES McSHERRY,
Chief Judge of the Court of Appeals of the State of Maryland.

38 *Assignment of Error.*

Filed July 1st, 1903.

Court of Appeals of Maryland.

In the Court of Appeals of Maryland.

JAMES C. CORRY
vs.
MAYOR AND CITY COUNCIL ET ALS.

James C. Corry, the appellant in this cause, and the plaintiff in circuit court No. 2 of Baltimore city assigns the following error in the final decision of this court, by the decree filed herein on the 16th day of January 1903;

1. The court erred in holding and deciding that the plaintiff in the court below and the appellant in this court was not entitled to maintain his bill of complaint in this cause, and in failing to reverse and remand this cause to the circuit court No. 2 of Baltimore city for further proceedings, under said bill of complaint;

2. That the court erred in deciding that the tax law of Maryland in regard to the taxation of non-residents of that State, by reason of their being holders of shares of stock in corporations created under the laws of Maryland, were valid, and that said laws were not in conflict with the Constitution of the United States and with the 14th amendment thereto.

3. That the court erred in deciding that sections 141 and 144 of article 81, of the Code of Public General Laws of the State of Maryland, were valid and were not in conflict with the Constitution of the United States and with the 14th amendment thereto, in that the said sections failed to provide for either notice to the stockholder in corporations formed under the laws of the State of Maryland, of the valuation to be placed upon the stock held by said stockholder, and failed for an opportunity to such stockholder to be heard as to the valuation of such stock before the value thereof, for purposes of taxation, is fixed by the Maryland tax officials;

4. The court erred in deciding that the tax laws of the State of Maryland, in controversy in this cause, are not unconstitutional and invalid, because;

(*a.*) The tax is a personal one and beyond the powers and jurisdiction of the State to levy as a personal tax against a non-resident of the State;

(*b.*) Because to enforce the taxation of such tax levied as a personal tax against a non-resident of the said State of Maryland, is taking property without due process of law, or color of right, and is in contravention of the Constitution of the United States.

(*c.*) Because no provision is made by the statutes of the State of Maryland, for hearing or opportunity to be heard by the non-residents of the State as to the value of shares of stock, in regard to which a personal tax is attempted to be levied upon them.

5. That the court erred in deciding that section 131 of article 81, of the Code of Public General Laws of the State of Maryland, was valid and not in conflict with the Constitution of the United States and with 14th amendment thereto, when it attempted to levy a personal tax and impose a personal debt or liability upon persons non resident of the State of Maryland, and not within the jurisdiction thereof, by reason of their ownership of shares of stock in corporations formed under the laws of the State of Maryland.

WILLIAM P. MAULSBY, JR.,
WILLIAM S. BRYAN, JR.
Attorneys for Corry, Appellant.

42 *Citation and Affidavit.*

Filed July 1st, 1903.

In the Court of Appeals of Maryland.

UNITED STATES OF AMERICA, *ss:*

To the Mayor and City Council of Baltimore; James P. Gorter, city collector; Murray Vandiver, State treasurer, and the New York and Baltimore Transportation Line, a body corporate, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error, filed in the clerk's office of the court of appeals of Maryland in a suit wherein; The — and City Council of Baltimore James P. Gorter city collector,
Murray Vandiver State treasurer and The New York and
43 Baltimore Transportation Line a body corporate are defendants in error and James C. Corry is plaintiff in error, to show cause, if any there be, whoy the judgment rendered against the said plaintiff in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable James McSherry, chief judge of the court of appeals of Maryland, this 27th day of June, in the year of our Lord one thousand nine hundred and three.

JAMES McSHERRY,
Chief Judge of the Court of Appeals of Maryland.

On this 30th day of June, in the year of our Lord one thousand nine hundred and three, personally appeared William S. Bryan, Jr.
before me, the subscriber, a notary public of the State
44 of Maryland in and for city of Baltimore duly commissioned and qualified and makes oath that he delivered a true copy of the within citation to Murr-y Vandiver State treasurer, to James P. Gorter city collector, to Robert M. McLane mayor and agent in this behalf of the mayor and city council of Baltimore, and to Charles W. Duff cashier and agent in this behalf of the New York and Baltimore Transportation Line, a body corporate.

Sworn to and subscribed 30th day of June, A. D. 1903.

[Seal of Thomas Kell Bradford, Notary Public, Baltimore, Md.]

THOS. KELL BRADFORD,
Notary Public.

45 *Bond.*

Filed July 1st, 1903.

Court of Appeals of Maryland.

Know all men by these presents, that we, James C. Corry, as principal, and Clarence Shriver as surety are held and firmly bound unto the Mayor and City Council of Baltimore James P. Gorter city collector, Murray Vandiver State treasure- and the New York and Baltimore Transportation Line a body corporate in the full and just sum of one thousand dollars, to be paid to the said The Mayor and City Council of Baltimore, James P. Gorter city collector Murray Vandiver State treasurer and the New York and Baltimore Transportation Line a body corporate, their certain attorney, executors, administrators, or assigns: to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 27th day of June, in the
46 year of our Lord one thousand nine hundred and three.

Whereas, lately at a session of the court of appeals of Maryland in a suit depending in said court between James C. Corry appellant and The Mayor and City Council of Baltimore, James P. Gorter city collector Murray Vandiver State treasurer and The New York and Baltimore Transportation Line a body corporate appellees a decree was rendered against the said James C. Corry, and the said James C. Corry, having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the decree in the aforesaid suit, and a citation directed to the said The Mayor and City Council of Baltimore, James P. Gorter city collector Murray Vandiver State treasurer, and The New York and Baltimore Transportation Line a body corporate citing and admonishing them to be and appear at a Supreme Court of the United States, at Washington within 30 days from the — thereof.

47 Now, the condition of the above obligation is such, that if the said James C. Corry shall prosecute his said writ of error to effect and answer all damages and costs if he fails to make his plea good, then the above obligation to be void; else in full force and virtue.

JAS. C. CORRY. [SEAL.]
CLARENCE SHRIVER. [SEAL.]
—— ——. [SEAL.]

Sealed and delivered in presence of—
BENJ. H. RENSHAW,
As to Clarence Shriver.
R. R. ROWE.

Approved by—
JAMES McSHERRY,
Chief Judge of the Court of Appeals of Maryland.

48 STATE OF MARYLAND, *sct:*

Court of Appeals of Maryland.

I Thomas Parran, clerk of the court of appeals of Maryland do hereby certify that the foregoing is a true transcript of the record and proceedings in the case of James C. Corry *vs.* The Mayor and City Council of Baltimore *et als.* as the same remains on file in the clerk's office of the said court of appeals.

And I do further certify that the said court of appeals of Maryland, is the highest court of law or equity in said State, in which a decision can be had in said case.

Seal Court of Appeals, Maryland.

In testimony whereof, I have hereunto set my hand as clerk, and affixed the seal of the said court of appeals this ninth day of July A. D. 1903.

THOMAS PARRAN,
Clerk Court of Appeals of Maryland.

49 UNITED STATES OF AMERICA, *ss:*

[The Seal of the Circuit Court, Maryland.]

The President of the United States of America to the honorable the judges of the court of appeals of Maryland, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court of appeals of Maryland before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between James C. Corry, plaintiff, and plaintiff in error, and Mayor and City Council *et als.*, defendants and defendants in error, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in ques-
50 tion the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission; a manifest error hath happened to the great damage of the said James C. Corry, plaintiff in error, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly

and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within thirty days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the twenty-seventh day of June, in the year of our Lord one thousand nine hundred and three.

JAS. W. CHEW,
Clerk of the Circuit Court of the United States
for the District of Maryland.

Allowed by
JAMES McSHERRY,
Chief Judge of the Court of Appeals
of the State of Maryland.

51 [Endorsed:] Court of appeals of Maryland. James C. Corry appellant *v.* Mayor & City Council of Baltimore *et al.* appellees Writ of error Mr. Clerk File this W. S. Bryan Jr. sol. for appellant Filed July 1st 1903

52 UNITED STATES OF AMERICA, *ss:*

To the Mayor and City Council of Baltimore, James P. Gorter, city collector; Murray Vandiver, State treasurer, and the New York and Baltimore Transportation Line, a body corporate, Greeting

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error, filed in the clerk's office of the court of appeals of Maryland in a suit wherein The Mayor and City Council of Baltimore, James P. Gorter city collector, Murray Vandiver State treasurer and The New York and Baltimore Transportation Line a body corporate are defendants in error and James C. Corry is plaintiff in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable James McSherry chief judge of the court of appeals of Maryland this 27th day of June, in the year of our Lord one thousand nine hundred and three.

JAMES McSHERRY,
Chief Judge of the Court of Appeals of Maryland.

53 [Endorsed:] In the court of appeals of Maryland James C. Corry *v.* M. & C. C. of Balto. *et al.* Citation & affidavit Mr. Clerk File W. S. Bryan Jr. sol. for appellant Filed, July 1st 1903

On this 30th day of June, in the year of our Lord one thousand nine hundred and three, personally appeared William S. Bryan Jr. before me, the subscriber, a notary public of the State of Maryland in and for the city of Baltimore duly commissioned and qualified and makes oath that he delivered a true copy of the within citation to Murray Vandiver State treasurer, to James P. Gorter city collector, to Robert M. McLane mayor, and agent in this behalf of the Mayor and City Council of Baltimore, and to Charles W. Duff cashier and agent in this behalf of the New York and Baltimore Transportation Line, a body corporate

Sworn to and subscribed the 30″ day of June, A. D. 1903.

[Seal of Thomas Kell Bradford, Notary Public, Baltimore, Md.]

THOS. KELL BRADFORD,
Notary Public.

Endorsed on cover: File No. 19,011. Maryland court of appeals. Term No. 86. James C. Corry, plaintiff in error, *vs.* The Mayor and City Council of Baltimore *et al.* Filed July 16th, 1903.